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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,420	02/09/2004	Oscar Davis Riddle III	3867.00	6583

7590 03/27/2006

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EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,420

Applicant(s)

RIDDLE, OSCAR DAVIS

Examiner

Reginald L. Alexander

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chase.

There is disclosed in Chase a support device comprising a metal plate (col. 1, lines 17-19) having a plurality of fingers (B, C, D, E) partially cut therefrom, the fingers being folded such that they extend upwardly from the metal plate and leaving a plurality of apertures (A) in the metal plate, the fingers being disposed about the metal plate such that they define a plurality of keepers.

In regards to the use of the device as a “poultry cooking device”, such is intended use only and provides no structural limitations to the claims.

In regards to the keepers supporting a beverage container, applicant merely recites that they are “capable of” performing that function. There is no positive recitation of the beverage container being a part of the invention. It should also be noted that the keepers disclosed in Chase could support a container of appropriate size.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Siegel et al.

Siegel discloses the use of longitudinal and lateral fins (sidewall 16) which extend angularly from a plate member and outwardly extending tabs (peripheral edge 14) that extend from the lateral fins.

It would have been obvious to one skilled in the art to provide the device of Chase with the sidewalls and peripheral edge disclosed in Siegel, so as to provide strength to the metal plate.

Claims 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Braastad.

Braastad discloses triangular shaped fingers 18a-d and apertures 22 cut form a base member.

It would have been obvious to one skilled in the art to modify the fingers and apertures of Chase with that taught in Braastad, in order to provide better support for taller items.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Braastad as applied to claim 5 above, and further in view of Seigel et al.

Seigel is disclosed in the rejection of claims 2 and 3 above.

It would have been obvious to one skilled in the art to provide the device of Chase, as modified by Braastad, with the sidewalls and peripheral edge disclosed in Siegal, so as to provide strength to the metal plate.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Alden et al.

Alden discloses longitudinal and lateral fins 42 and 52 respectively and tabs 36 extending from the lateral fins to form handles.

It would have been obvious to one skilled in the art to provide the device of Chase with the fins and tabs disclosed in Alden, in order to facilitate easier handling of the device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Orec, Dudley, Hansen and Becker et al. are cited for their disclosure of the state of the art.

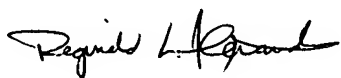
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rla
March 20, 2006



Reginald L. Alexander
Primary Examiner
Art Unit 1761